

ATTACHMENT 2

(The following is a transcript in the hearing held before John Murphy, Administrative Law Judge, Office of Hearings and Appeals, Social Security Administration, Department of Health and Human Services on June 6, 2000, at Grand Rapids, Michigan, in the case of Pablo Fierro, Social Security Number 559-37-3860. The claimant appeared in person and was represented by Kevin J. McCroskey, Attorney. Also present was Paul Delmar, Vocational Expert.) 41

(The hearing commenced at 11:11 a.m., on June 6, 2000.)

OPENING STATEMENT BY ADMINISTRATIVE LAW JUDGE:

ALJ: We're here this morning regarding the claim for benefits filed by Mr. Pablo R. Fierro. Let the record reflect that Mr. Fierro appears in person and by his attorney Kevin J. McCroskey. Also present with you down there is Dr. Paul Delmar, who's a vocational expert, and claimant's wife -- Zulema?

CLMT: Correct.

ALJ: If you want to pull your chair up and sit beside your husband, feel free to do so. If you're fine right now -- wherever you're most comfortable is okay with me.

CLMT: Thanks.

ALJ: Mr. Mark Marsiglia is the hearing monitor today. My name is John Murphy. Good morning to all of you.

ATTY: Good morning.

CLMT: Good morning.

WIT: Good morning.

ALJ: Mr. McCroskey, have you explained the issues to your client?

ATTY: Yes, I have, Your Honor.

ALJ: Do you have any objections to Exhibits 1 through 4A, 1 through 10B, 1 through 7D, 1 through 18E, and 1 through 32F?

ATTY: No objection, Your Honor.

ALJ: Please show these documents admitted into evidence.

(Exhibits 1 through 4A, 1 through 10B, 1 through 7D, 1 through 18E, and 1 through 32F, previously identified, were received into evidence and made a part of the record thereof.)

ALJ: To the best of your knowledge do we have all relevant evidence in this case?

ATTY: Yes, we do.

ALJ: Okay. Thank you. For the record, Mr. McCroskey indicated that he wanted to speak to me prior to going on the record, and as my policy I summarize any statements or any discussion that was had off the record on the record to make sure that everything is clear. Mr. McCroskey brought in Exhibit Number 32F today, and there was a notation in the file, on the blood test, that showed that apparently the blood test does not show a therapeutic level in the Oxy-Contin medication, which the doctor wanted her to take. So for what it's worth, that's the first thing that was stated to me. The second was in my prehearing statement of facts I asked if any prior claims, automobile accidents, Workers' Comp, etc., and if so has the person been examined by any other medical sources, and also whether or not there were any depositions or statements taken. Mr. McCroskey advised me today that a Workers' Comp case -- that the -- there were some depositions taken -- between 1992 and 1996?

ATTY: I have them on the prehearing statement of facts. They were from October of 1994 --

ALJ: Through June of 1995?

ATTY: Exactly.

ALJ: Okay. Mr. McCroskey, wanted to know whether or not,

myself, I needed those depositions, and they are prior to the alleged onset date of 3/1/98. I have up-to-date MRIs as recently as 2 months ago, March the 8th of 2000. I don't believe, due to the period of times from 5 years ago, that these depositions are going to be of great assistance to me, but I appreciate your candor and asked if I want them, because generally I do like to have them and see what they have to say. Does that accurately reflect the conversation that you said you wanted to have with me prior to the hearing?

ATTY: Yes, it does, Your Honor.

ALJ: Did I eliminate or delete anything?

ATTY: No, I think you covered everything.

ALJ: Okay. Okay. With that I guess we're ready to start.

(The claimant, PABLO FIERRO, having been first duly sworn, testified as follows:)

EXAMINATION OF CLAIMANT BY ADMINISTRATIVE LAW JUDGE:

Q Would you please state your name for the record?

A I'm Pablo Fierro.

Q And your age sir?

A Fifty.

Q And date of birth?

A 6/29/49.

Q How tall are you, sir?

A 5'8''.

Q And how much do you weigh?

A 189.

Q You're married and have one child, 11?

A Yes. We have three -- we have one -- we have three kids -- four kids, 26, 24, 19, and 11.

Q Okay. And you have a high school education?

A Well, in Mexico we -- I went to 10th grade. I don't know if that's high school or --

Q Are you able to read and write in English?

A No, sir. No, sir. I can read a little bit, but I cannot write nothing.

Q Can you give me examples of things you can read?

A I can read, just it's -- give me a little piece of paper, I can read, you know. I can't write just period. I can write and read in Spanish.

Q You can read some English?

A In English, yes, I can read some, not perfect, but --

Q I understand. I understand very well, because when I was taking Spanish it was a lot easier for me -- I could read a lot of things, but when I had to write it --

A You can't, yeah.

Q Oh, I could, but I know it probably would sound like -- it would read like a grade schooler. Okay. Are you currently employed, sir?

A No, sir.

Q And was your date last worked full time in -- when?

A Well, I tried to go back to work. In 1999 I worked for 1 week, tried to work in the restaurant, but it's -- the lady told me

was I cannot handle the job.

Q What was your job position?

A Oh, well, she just hired me like manager, but she said due to all the medication and everything I can't concentrate.

Q That was to be a manager?

A Yes.

Q Was she expecting you as the manager to keep records?

A Right.

Q So the amount of writing that involved would have been what?

A I don't know.

Q You, you didn't get that far?

A No.

Q While you were there what work did you actually do?

A I had to keep track of the money.

Q Keep track of money?

A Yes.

Q Did you make a lot of mistakes?

A Yes.

Q Okay, and prior to that when did you work full time?

A I worked for (INAUDIBLE) Company and (INAUDIBLE) Power. I worked both places the same time.

Q And do you remember when you last a full-time?

A 1992. It's when I hurt myself.

ATTY: Your Honor, if I could just offer something here?

ALJ: Sure. Yeah, any explanation that might assist you